

ESTTA Tracking number: **ESTTA645687**

Filing date: **12/18/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	The Sporn Company
Granted to Date of previous extension	12/24/2014
Address	227 Main Street Burlington, VT 05401 UNITED STATES
Attorney information	Cathleen E. Stadecker Downs Rachlin Martin PLLC 199 Main StreetPO Box 190 Burlington, VT 05401 UNITED STATES tmip@drm.com Phone:802-863-2375

### Applicant Information

Application No	85540923	Publication date	08/26/2014
Opposition Filing Date	12/18/2014	Opposition Period Ends	12/24/2014
Applicant	Periwinkle, LLC 5054 South 22nd Street Arlington, VA 22206 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2005/10/01 First Use In Commerce: 2005/10/01  
All goods and services in the class are opposed, namely: On-line retail gift shops; On-line retail store services featuring clothing, fashion, and accessories; Retail apparel stores; Retail clothing boutiques; Retaildepartment store services; Retail gift shops; Retail jewelry stores

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4508772	Application Date	08/13/2010
Registration Date	04/08/2014	Foreign Priority Date	NONE
Word Mark	PERRYWINKLE'S		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 1999/03/31 First Use In Commerce: 1999/03/31 jewelry and diamonds Class 035. First use: First Use: 1999/03/31 First Use In Commerce: 1999/03/31 retail store services featuring jewelry, diamonds, watches, and handbags, all for adults

Attachments	Notice of Opposition Periwinkle.pdf(503287 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/cathleen e stadecker/
Name	Cathleen E. Stadecker
Date	12/18/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/540,923 for PERIWINKLE and design  
Published in the *Official Gazette* of August 26, 2014

The Sporn Company, Inc.	)	
	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.:
	)	
Periwinkle, LLC	)	
	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

The Sporn Company, Inc. (“Opposer”), a New York corporation, with a business address of 227 Main Street, Burlington, Vermont 05401, believes it will be damaged by registration of the mark PERIWINKLE and design that is the subject of application Serial No. 85/540,923, owned by Periwinkle, LLC (“Applicant”), a Virginia limited liability company with an address of 5054 South 22<sup>nd</sup> Street, Arlington, Virginia 22206, and hereby opposes the same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer has used, and currently uses, the mark PERRYWINKLE’S in connection with jewelry and jewelry stores.
2. Opposer is the owner of U.S. Registration No. 4,508,772 for the word mark PERRYWINKLE’S to identify “jewelry and diamonds,” in Class 14; and “retail store services featuring jewelry, diamonds, watches, and handbags, all for adults,” in Class 35. Opposer filed application Serial No. 85/106,996 on August 13, 2010, and the registration for its PERRYWINKLE’S mark issued on April 8, 2014, based on use of the mark in commerce since

at least as early as March 31, 1999. A copy of the certificate of registration is attached as

**Exhibit A.**

3. On February 13, 2012, Applicant filed an application to register the trademark PERIWINKLE and Design, Application Serial No. 85/540,923 based on alleged use of the mark in commerce since October 1, 2005, in connection with “On-line retail gift shops; On-line retail store services featuring clothing, fashion, and accessories; Retail apparel stores; Retail clothing boutiques; Retail department store services; Retail gift shops; Retail jewelry stores” in Class 35. A true and correct printout from the United States Patent and Trademark Office database setting forth the details of this application is attached as **Exhibit B.**

4. Opposer’s PERRYWINKLE’S mark has been in continuous and exclusive use in commerce since before any use by Applicant of the PERIWINKLE and design mark.

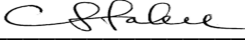
5. Because Applicant’s PERIWINKLE and design mark is highly similar to Opposer’s PERRYWINKLE’S mark, Opposer’s and Applicant’s marks identify overlapping and closely related goods and services, and Opposer’s and Applicant’s goods and services are likely to be offered in the same channels of trade and to the same class of purchasers, Applicant’s PERIWINKLE and Design mark is likely to cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Trademark Act. Opposer will thereby be damaged by the registration of application Serial No. 85/540,923.

WHEREFORE, Opposer requests that the opposition be sustained and that registration of application Serial No. 85/540,923 be refused in its entirety.

Respectfully submitted,

The Sporn Company, Inc.

Date: December 18, 2014

By:   
Cathleen E. Stadecker  
Peter B. Kunin  
DOWNS RACHLIN MARTIN PLLC  
199 Main Street  
P.O. Box 190  
Burlington, VT 05402  
Telephone: (802) 846-8342  
Facsimile: (802) 862-7512  
ATTORNEYS FOR OPPOSER  
THE SPORN COMPANY, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and complete copy of the foregoing document entitled Notice of Opposition has been served on Applicant Periwinkle, LLC by mailing said copy from Burlington, Vermont on December 18, 2014 via First Class Mail, postage prepaid to:

Michael Chamowitz  
Law Offices of Michael J. Chamowitz, P.C.  
118 N Alfred St.  
Alexandria, Virginia 22314-3011



Jennifer W. Parent

13800947

EXHIBIT A

**United States of America**  
United States Patent and Trademark Office

**PERRYWINKLE'S**

**Reg. No. 4,508,772**

**Registered Apr. 8, 2014**

**Int. Cls.: 14 and 35**

**TRADEMARK**

**SERVICE MARK**

**PRINCIPAL REGISTER**

SPORN COMPANY, INC., THE (NEW YORK CORPORATION)  
227 MAIN STREET  
BURLINGTON, VT 05401

FOR: JEWELRY AND DIAMONDS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 3-31-1999; IN COMMERCE 3-31-1999.

FOR: RETAIL STORE SERVICES FEATURING JEWELRY, DIAMONDS, WATCHES, AND  
HANDBAGS, ALL FOR ADULTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 3-31-1999; IN COMMERCE 3-31-1999.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-  
TICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-106,996, FILED 8-13-2010.


JASON TURNER, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

# EXHIBIT B

**United States Patent and Trademark Office**  
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<b>Word Mark</b>	PERIWINKLE
<b>Goods and Services</b>	IC 035, US 100 101 102, G & S: On-line retail gift shops; On-line retail store services featuring clothing, fashion, and accessories; Retail apparel stores; Retail clothing boutiques; Retail department store services; Retail gift shops; Retail jewelry stores. FIRST USE: 20051001, FIRST USE IN COMMERCE: 20051001
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	05.05.25 - Daffodils; Iris (flower); Other flowers 26.03.17 - Concentric ovals; Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric
<b>Serial Number</b>	85540923
<b>Filing Date</b>	February 13, 2012
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	August 26, 2014
<b>Owner</b>	(APPLICANT) Periwinkle, LLC LIMITED LIABILITY COMPANY VIRGINIA 5054 South 22nd Street Arlington VIRGINIA 22206
<b>Attorney of Record</b>	Michael Chamowitz
<b>Description of Mark</b>	The color(s) white, lavender blue, and black is/are claimed as a feature of the mark. The mark consists of the literal text "periwinkle" horizontally displayed in lower case type with an image of a flower containing six (6) lavender blue petals, outlined in black, positioned both to the left and right of the text. A lavender blue oval is centered on the text and flower images and encircles the same. All of the foregoing is encircled by a bold black oval that is slightly larger than the lavender blue oval. All of the foregoing is overlaid on a white background.
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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